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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-fifth session

SUMMARY RECORD OF THE 665th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 4 October 2000, at 10 a.m.

Chairperson: Ms. OUEDRAOGO

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GE.00-44866 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of the Comoros (CRC/C/28/Add.13; CRC/C/Q/COM/1; written replies of the Government of the Comoros to the questions raised in the list of issues (document without a symbol distributed in the meeting room in French only))

1. At the invitation of the Chairperson, Ms. Toyb and Mr. Djaffar (Comoros) took places at the Committee table.

2. The CHAIRPERSON invited the Committee members to put questions to the delegation concerning the State party's report and the Government's written replies to the questions raised in the list of issues.

3. Mr. DOEK, noting that the initial report was some two years old, requested up-to-date information on the political situation in the Comoros, which had had a long history of instability. He believed that a peace agreement had recently been negotiated in Madagascar, but that certain representatives of the island of Anjouan had so far rejected that accord. The current President, who had issued a new Constitution by decree in 1999, was said to be considering stepping down.

4. Over half the population was reportedly under 18. The State kept statistics on the number of children under 15 and on those between 16 and 19, which included persons 18 and 19 years of age. Were there any plans to bring those statistics into line with the definition of the child used by the Convention, so as to determine the precise number of Comorians under 18 years of age? He noted that the initial report was quite frank, and openly addressed problems linked to cultural attitudes towards children, violence and other matters, while the written replies depicted the situation in a less self-critical light.

5. The new Constitution apparently contained no specific prohibition of discrimination based on religion, race or sex. The initial report, which had been drawn up in 1998, identified problems of discrimination against girls. Were the Comorian Constitution and legislation in line with the provisions of the Convention, and if not, were any efforts being made to correct the situation?

6. According to paragraph 21 of the initial report, implementation of the Convention was tantamount to a cultural revolution. The report referred to a utilitarian view of the child, which could be summed up by the Comorian expression Moina maana ("The only good child is a useful child"), and to a spartan approach which called for the child to be "subdued" through the use of force and corporal punishment. What measures had been taken to alter that attitude? Had any awareness campaigns been carried out in the past two years to promote the consideration of the child as a bearer of rights who deserved respect?

7. Could the delegation explain how in practice French civil law and Muslim law coexisted in the legal system? How did the combination of the two legal systems influence or enhance the implementation of the Convention? Under which law was the Convention considered? Did it apply directly in Comorian law, or was the adoption of enabling legislation required?

8. According to the report, the Family Code bill deserved to pass rapidly into the statute book, although it had given rise to heated discussions among Islamic and Western legal experts. Was the Government still committed to the adoption of that law?

9. Ms. EL GUINDI, inquired about the structure of the National Commission to Follow up the Convention on the Rights of the Child, which was the national mechanism for coordination and implementation of the Convention. What was the National Commission's relationship with the various Government ministries and non-governmental organizations (NGOs)? Was its mandate limited to drawing up reports, or was it involved in the practical implementation of the Convention? Could the delegation clarify the definition of the child set out in paragraph 52 of the initial report?

10. Mr. FULCI said the Government had given no examples of participation by civil society in the implementation of the rights of the child, and that it had not provided sufficient information on the extent to which children and NGOs had been involved in drawing up the periodic report. How many NGOs were working in the field of children's rights? There was also a lack of detailed information on the National Commission to Follow up the Convention on the Rights of the Child. How many members did the Commission have, and how often did it meet? Did it have its own secretariat? Had it elaborated a plan of action?

11. The report and written replies offered no information on efforts to publicize the Convention and its principles among both adults and children. Had any publications been issued, and if so, how had they been circulated? Were children aware of their rights?

12. Ms. RILANTONO underscored the importance, in a country which had experienced so much political instability, of strengthening civil society in order to ensure a better future. In such a context the Convention and children's rights took on still more importance. The child must be considered as a bearer of rights and an active subject of development. Comorian society must appreciate the benefits of developing children to their fullest potential, not only for the children's sake, but for the country's as well. Civil society and NGOs must be made aware of the Convention and of children's rights. The drawing up of the initial report was intended as a first step in that process. How many NGOs had taken part in the drafting of the report? How many worked to promote children's rights in the Comoros? According to the written reply to question 4, the National Commission to Follow up of the Convention on the Rights of the Child worked closely with NGOs. It would be preferable to include NGOs in the Commission itself, to enable them to play a role in formulating policies and plans of action. The Commission had been placed under the authority of the Ministry of Foreign Affairs and Cooperation. In the light of the importance of its assigned task, was there any intention to place it under the authority of a different ministry, or under the direct responsibility of the Prime Minister?

13. There was apparently a need for cultural change in the Comoros. According to some sources, children were considered a mere economic utility. It was necessary to foster a new attitude more respectful of their right to express their views. Paragraphs 66 and 67 of the report reflected an erroneous concept of children, according to which children were rebellious individuals who lacked discernment and it was the sacred duty of parents and society to "train" them to be human beings. A basic principle of the Convention was that children must be seen as bearers of rights, entitled to express their views and to develop fully.

14. Mr. RABAH expressed concern about the ildren of religious minorities. There had been reports of discrimination against Christians, who represented about 1 per cent of the population. He noted that, although adoption was prohibited under Islamic law, other Islamic States used alternative procedures such as kafalah to fulfil its role. He asked whether the children's parliament was a permanent body, how its members were selected and whether similar representative bodies existed at the municipal level and in rural areas.

15. Were children taught about their rights at school, and was the Convention covered in the school curriculum? According to the written replies, in divorce cases child custody was always awarded to the mother, as she was the owner of the family's home. Was that policy dictated by law, or could a judge overrule it in the best interests of the child?

16. Ms. TIGERSTEDT-TÄHTELÄ observed that the Comoros had not yet ratified a number of important human rights instruments, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Observance of the rights of the child was related to general respect for human rights. Could the delegation provide an assessment of the human rights situation in the Comoros?

17. Ms. MOKHUANE said that although the information provided by the Government indicated that there was no discrimination against children, the Committee had received some reports of discrimination, for example against Christian children. She would appreciate a comment from the delegation on that apparent contradiction. Why had the monitoring of the implementation of the Convention been assigned to the Ministry of Foreign Affairs and Cooperation? Who were the eminent persons who sat on the National Commission to Follow up the Convention on the Rights of the Child?

18. The Government had provided information on allocations for education, but none on overall spending for children, and neither the report nor the replies clearly stated the age of sexual consent. The report indicated that virgins and non-virgins were treated differently. How was a person's status as a virgin or non-virgin established? Did the restrictions which applied to virgins extend to males as well, or only females? While it was commendable that divorced women were recognized as the owners of the family's home, what rights and entitlements did unmarried mothers and their children have? According to reports, people from Anjouan living on other islands had been told that they would have to return to their island. What was the situation of their children.

19. Mr. DOEK, citing the initial report to the effect that physical and mental disabilities were regarded as a severe stigma and cause for shame, requested clarification about discrimination against the disabled. The report also indicated that the Comoros depended heavily on international support. What percentage of the country's social expenditure was covered by funding from international organizations and financial institutions?

The meeting was suspended at 10.45 a.m. and resumed at 10.55 a.m.

20. The CHAIRPERSON invited the delegation to reply to the questions put by the Committee members.

21. Ms. TOYB (Comoros), referring to the country's political situation, said that following the secessionist rebellion in Anjouan, the Government and the Anjouan separatists had signed an agreement which allowed the separatists freedom of movement. As a result, they were able to travel throughout the country in order to take part in talks. Although ruled by a military junta, the Comoros was a democracy in which political opposition could be expressed in the print and audiovisual media. The Government and civil society had joined forces with a view to integrating both civil society and the political parties in the forthcoming elections and ushering in a climate of stability and calm, without which there could be no respect for human rights, particularly the rights of the child.

22. Referring to the list of post-ratification activities mentioned in paragraph 35 of the initial report, she said the Day of the African Child offered an opportunity for individual children and youth organizations to air their views and grievances and suggest ways of addressing each region's needs. Owing to the embargo and the climate of political instability, no Family Code existed as yet. However, with the lifting of the embargo and with reconciliation on the way, a delegation would visit Anjouan to collect ideas and proposals from the island's inhabitants for the long-awaited Family Code.

23. All the major ministries were involved in the National Commission to Follow up the Convention on the Rights of the Child, which also included members of civil society: representatives of women's associations, civic leaders and members of youth associations - in other words, women, men and children - from all the islands came together to tackle the issue of family welfare. Also active in the area were CARE International, the youth organization known as DIA and various pilot groups. A magistrate and the Chairperson of the Women's Association for Comorian Children constituted the focal point. Although the agency had yet to be formalized, it met weekly and, with UNICEF assistance, had formulated a plan of action. Despite the State party's firm commitment to the protection of human rights, it had been prevented by lack of funds from establishing a permanent office.

24. She questioned the assumption that children in the Comoros were a purely economic product: far from it, each family worked to give the best to its children. Similarly she did not agree that Comorian children were rebellious. On the contrary, they were docile and had to be pressed to stand up for themselves: one reason for early marriages was girls' reluctance to disobey their parents.

25. On the subject of discrimination, she said that NGOs had been mobilized to encourage women to attend school. While the legislation accorded women their rightful place, they seldom claimed it. She disagreed that religious discrimination existed in her country. Apart from four other religions practised by foreigners, the Comoros had a single religion, Islam, into which children were born and which they espoused.

26. Replying to Ms. Mokhuane, she said all women were entitled to a home, and such a home was traditionally provided for single mothers and their children by the extended family. That was also the reason why formal adoption did not exist. As in African society, if the need arose all children - including children born out of wedlock - received care from others. It was not unknown for a childless woman to be given a child to rear as her own by a friend or relative. Orphanages were unnecessary and were considered institutions of shame.

27. Regarding the disabled, although Handicap International had left the country, Shieldway, a highly organized institution, was present and had been given facilities and other assistance by the Government. Psychiatric patients received complete care from their families. Any other solution would be a matter for shame.

28. Mr. DJAFFAR (Comoros) said that, with the help of civil society, the country had taken many positive steps in the area of children's rights since the drafting of the initial report, which had doubtless given a negative impression.

29. Replying to questions concerning the judicial system, he explained that civil and criminal law derived from the French system and governed all areas with the exception of the family, which was governed by customary law based on the Shariah. Judges especially trained in the Shariah dealt with issues such as inheritance and marriage. The institution of juvenile judge existed, except in Anjouan, where one was expected to be installed by July 2000, funds permitting. Juvenile delinquency was virtually unknown in his country since children were closely controlled and guided. It was, however, regulated by a 1928 French law enforced in the colonies.

30. A person aged 14 or 15 was considered to be a child, although marriages occurred as early as 13. The National Commission was endeavouring, through the Family Code, to establish 18 as the minimum age for marriage, in accordance with the Convention. The minimum voting age was 21. The State party being a Muslim country, adoption was not a recognized institution. Under civil law, a person could be given parental authority over a child, such as an orphan, but could not legally adopt the child. Some NGOs and members of civil society would like to introduce adoption into the domestic legislation. It was an idea that might be pursued once political stability had been attained.

31. The CHAIRPERSON invited members to put further questions in the light of the delegation's replies.

32. Mr. DOEK said the traditional expression Moina maana did not necessarily gainsay the delegation's claim that Comorian children were cared for and loved. The Committee might do well to tread softly on matters of culture. What was the role of international organizations and did they have a say in budget allocations? Despite the Comoros' very limited resources, the fact that the country's efforts to implement the Convention had been funded largely by external bodies might call its economic commitment into question.

33. He would appreciate information about the fate of the exercise - begun two years previously - to study the conformity of Comorian laws with the Convention, which had identified two categories of non-conformity: one in which legal provisions did not comply with the Convention, and another in which provisions of the Convention did not appear in domestic legislation. Had the exercise been used to prepare the Family Code bill? And was the Government still pursuing adoption of that bill?

34. Turning to general principles and the right to be heard, he noted the delegation's assertion that children were highly valued in Comorian society and were listened to in school and within the family. But was there a law governing the views of a child in court proceedings, and how

was it enforced? Paragraphs 70-73 of the initial report provided interesting information on girls' freedom of expression in society. He wished to know the situation with regard to freedom of expression in schools and the disparity between girls and boys. In addition, what was the current situation regarding girls, who, according to paragraph 71 of the report, were not only subject to the tyranny of age but were also expected to defer to boys at all times, and women, who were excluded from public debate, hence, from power?

35. The written reply to question 11 claimed that corporal punishment no longer existed, yet paragraph 77 of the initial report provided a detailed and sobering description of ways in which children were punished, adding that corporal punishment was also administered in State schools by poorly-trained teachers. He wished to know whether corporal punishment was prohibited by law and what steps the State party was taking to raise teachers' awareness of its harmfulness.

36. Ms. RILANTONO, reverting to the country's attitude to children, stressed that the Committee's dialogue with the delegation was not an exercise in idle criticism, but an attempt to identify the factors that impeded the State party's implementation of the Convention and to provide assistance in moving forward. While the problems, as in so many countries, were cultural, they still needed to be addressed: cultural change could be important. She was heartened by the delegation's assurances that children in the State party were valued and enjoyed the right to express their views. The use of children to help with harvests had probably engendered the idea that they were viewed in a utilitarian manner.

37. Citing the statement in the initial report that by tradition, a person who had not contracted customary marriage remained a mnamdji (child of the village), she said that, while there might have been improvement in some urban areas, children in traditional society urgently needed assistance to enjoy the rights proclaimed in the Convention. In the absence of a university in the Comoros, the State party might seek support from international agencies or foreign universities for formulating the relevant programmes and projects.

38. Mr. FULCI, said that independent sources had indicated the existence of widespread discrimination against Christians in the State party: reportedly, Christians had been isolated from village life, attacked by mobs, forced out of their homes and threatened with loss of financial support, and Christian children had been forced to attend services at mosques. He would welcome the delegation's comments on those reports.

39. Paragraph 69 of the report (CRC/C/28/Add.13) stated that a child had to be registered within 15 days of birth, but no explanation was given of how the system functioned in practice and whether there were penalties for non-compliance. It had been reported that only 20 to 40 per cent of Comorian children were registered; that was an appalling figure, if true, as it meant that the remaining children had no civil status. What had been the outcome of a birth registration campaign launched in 1999 by the Government, in cooperation with the United Nations Children's Fund (UNICEF)?

40. Mr. RABAH asked whether there was a UNICEF field office in the Comoros. If so, what was its relationship with the National Commission? He would also like to know whether abuse committed against children by parents, the police or teachers could be reported, either through an ombudsman, a hotline or some other mechanism, and, if no such mechanism existed, whether children could lodge their complaints directly with the courts.

41. Ms. MOKHUANE asked what priorities had been identified under the national plan of action to address rural/urban disparities. Had those priorities or plan of action changed in the light of the coups d'état the State party had experienced? She would also like to know whether, in addition to projects like the children's parliament and the Day of the African Child, children were allowed to air their views on a daily basis.

42. The report spoke of parents training their children "to be human beings", whereas children were human beings from birth. She wondered whether the prevailing view was that children should be seen but not heard and asked how the right to life, survival and development was interwoven into the various programmes.

43. Ms. RILANTONO said the lack of a core document was regrettable. She requested information about the illiteracy rate, especially among women. According to one source, education accounted for 4 percent of GNP and 67 per cent of the total education budget was devoted to teachers' salaries alone, which suggested that very little was spent on actual activities.

44. The CHAIRPERSON asked how the national Parliament had followed up the recommendations of the children's parliament and whether it had a children's rights lobby. She would also like to know whether a permanent children's parliament was to be established. Was there an integrated programme to combat poverty, or an integrated development programme?

45. Mr. DJAFFAR (Comoros), replying to Mr. Fulci's question about discrimination based on religion, said that Islam as practised in the Comoros was extremely tolerant of other religions; he questioned the source of Mr. Fulci's information and said he was very surprised to learn that there could be such levels of religious intolerance in his country.

46. A recent study had shown that some national legislation, in particular certain Family Code provisions, were not in conformity with the Convention. However, the National Commission was encouraging the Government to amend the legislation accordingly. Although problems remained unresolved in relation to the Family Code, the Code could still help to address many family-related problems. Repudiation and polygamy were allowed under national law, and while the Family Code bill did not completely abolish them, it toned them down.

47. It was extremely difficult for children to lodge complaints of abuse directly with the courts, but parents could do so on their behalf. The situation of corporal punishment in schools had evolved and in spite of the flaws in the State party's democratic system, perpetrators were brought to justice. Efforts to make the judiciary completely independent continued. Although, it was true that the Government was not able to give children's rights the full attention they deserved, owing to the country's economic and financial difficulties, children were not neglected.

48. Ms. TOYB (Comoros) said that children were seen as an investment: they were expected to take care of their parents when they became working adults. It was culturally accepted that women should be the ones to do the housework. NGOs and UNICEF had conducted awareness-raising campaigns among parents aimed at enabling girl children to play and study, like boys, instead of being condemned to performing domestic chores with their mothers.

49. Concerning the right to freedom of expression, a "Children's Circle" (Cercle des Enfants) had been established comprising both girls and boys who came together to discuss problems they were experiencing with their parents. Birth registration had not been obligatory before 1998 because of the high number of home births, but an awareness-raising campaign had begun, in cooperation with UNICEF, to enable traditional midwives to participate in the birth registration process. That initiative had resulted in a higher rate of registered births and it was hoped that the rate would continue to rise.

50. There was a UNICEF office in the State party with which the Government and the National Commission worked closely. The national plan of action had recently been established with UNICEF's support and with input from Government officials. One of the biggest problems faced by the State party was the high illiteracy rate among women; funds were currently being sought to begin a functional literacy campaign for women, especially those in rural areas. Only one session of the children's parliament had been held, without any follow-up; the National Commission would encourage the convening of further sessions. The term "poverty" was now being replaced by the term "wealth creation", whereby people were provided with the means to combat poverty, such as mutual savings funds.

51. Ms. TOYB (Comoros), referring to the child's right to be heard, said that change could not be effected overnight; in a deeply traditional society like that of the Comoros, it was difficult for both women and children to express their views. However, with the translation of the Convention into the Comorian language and the many efforts which the Government had made in the area of children's rights, the situation was expected to improve.

52. The CHAIRPERSON asked whether children were able to lodge complaints of mistreatment by a parent.

53. Mr. DJAFFAR (Comoros) said that, although it was difficult for children to lodge complaints of abuse directly with the courts, they were permitted to do so under the old French Code of Criminal Procedure, aspects of which had been retained in Comorian law. There were no social workers dedicated to children's issues, but if a child had been beaten to a point necessitating treatment in hospital, the medical staff could submit a report to the appropriate authorities. It was difficult to imagine a child lodging a formal complaint against a parent for abuse, but the National Commission would try to raise public awareness in that regard.

54. The CHAIRPERSON said that, in the absence of social services for children or a complaints structure, children might be left to suffer abuse without any hope of escape or assistance. Efforts had to be made to change the attitude of parents.

55. Mr. DOEK said that it was not easy for a child to lodge a complaint against a parent in any country; the home was supposed to be a safe place for the child, and abuse by parents, especially sexual abuse, remained a taboo subject. It was not fair to place the onus on the child to take action; even beyond the parents, it was the responsibility of society, and particularly of Governments to protect children's rights under the Convention.

56. He would like to know, first, whether Comorian law prohibited all violence against children, second, whether the Government had envisaged the establishment of a system that would facilitate lodging complaints for abuse and neglect and third, whether it had designated a body or office to receive such complaints. Had measures been taken to ensure that the population was aware that children should not be ill-treated or abused?

57. In addition, he would like to know the role of the Children's Circles; what laws, if any, guaranteed the right of a child to be heard; and whether any law existed to ensure that children were informed of their right to be heard by a judge.

58. Many countries were concerned that modernization and urbanization would damage the family; it would be useful to know how families and extended families were faring in the Comoros. In the written reply to question 14, the Government had specified that children placed in foster families did domestic work: since such situations often led to abuse, further clarifications would be welcome. What was the nature of those arrangements?

59. Ms. MOKHUANE said she had heard no reply to her questions concerning the National Plan of Action for the Survival, Protection and Development of Children. In addition, she would like to know how the best interests of the children placed in foster families were ensured and protected; how, in view of the traditional attitudes prevalent in that country, Comorian parents viewed the matter of children's rights; and how rape was handled in families and by the courts.

60. The CHAIRPERSON said, first, that she would like to know what measures, if any, protected a child's privacy at home and in school, with regard both to correspondence and telephone calls. Second, paragraph 76 of the report indicated that boys were permitted to construct their own independent dwellings near the family home; what similar possibilities were available to girls?

61. Mr. DJAFFAR (Comoros) said that a chapter of the Penal Code entitled Crimes and offences against children provided severe punishments for, among other things, abducting a child, changing the identity of a child or substituting one child for another; delivering a child without a proper license; abandoning or exposing a child; and moving a child from the place he or she was left in by the parents or guardian. Though perhaps imperfect, the Penal Code attempted to protect children from all forms of violence.

62. Comorian law provided severe punishments for crimes of a sexual nature against girls and women, and a number of such cases were heard by the courts. Since the Comoros was a socially cohesive, traditional Islamic society, sexual crimes rarely occurred; that was not a major problem. On the other hand, for the same reason, it was often difficult for women to report sexual crimes. No system existed whereby social workers in schools or hospitals, for instance, were empowered to report such cases to the court.

63. Ms. TOYB (Comoros) said that the National Plan of Action for the Survival, Protection and Development of the Child had focused its efforts on vaccinating children and combating childhood illnesses. The campaign, which sought to raise awareness about those important health issues, had succeeded in raising the vaccination coverage, and had greatly improved mother and child care with the assistance of the United Nations Population Fund (UNFPA) and UNICEF, particularly in the areas of respiratory illness, venereal disease and diarrhoea.

64. The child's right to be heard was a sensitive issue, because both the child and the family must be taught to understand that principle. Although as yet no measures had been undertaken, the National Commission intended to address that matter on a priority basis. The Children's Circles existed within the context of the community development associations; there, children could raise important questions and receive answers in accordance with their ability to comprehend. Thus far the Children's Circles were urban; efforts should perhaps be made to extend them to rural areas.

65. Urban families took in poor children, particularly girls, from the countryside, and fed and cared for them in exchange for domestic work. As many of those children did not attend school, the Government had begun a campaign to encourage host families to send their foster children to school. Efforts should also be taken to encourage poor families not to place their children in foster families and to increase the school enrolment of girls. Although Koranic school was obligatory, what was referred to in the Comoros as "Western education" thus far was not.

66. A pregnant girl in conflict with her family might choose to live with the family of the baby's father or with a member of her extended family. It was extremely rare in Comorian society for a woman to leave her family and live on her own. The matter of early marriage must be taken up directly with the Shariah judge.

67. The CHAIRPERSON said that the National Commission should consider creating a structure, such as a subcommission, to monitor the treatment of children in foster care.

68. The failure to provide compulsory education was an outright violation of the Convention. Education must be obligatory and should also be free. She encouraged the Government to seek assistance from UNICEF and the United Nations Educational, Scientific and Cultural Organization (UNESCO) in providing free education to Comorian children.

69. Mr. DJAFFAR (Comoros) said that the National Commission would endeavour to explain to the Government that the placement of foster children should take place under the supervision of a judge.

70. Ms. TOYB (Comoros) said that foster children frequently visited their own families, and that parent families and host families were in frequent contact with each other.

71. The CHAIRPERSON said she was not suggesting a legal solution to the problem of foster children, as experience had shown that families would not agree to host children under such conditions. In her view, a small committee could look into the means of monitoring informal foster arrangements.

The meeting rose at 1 p.m.